

# SENATE BILL REPORT

## SB 5851

---

---

As of February 28, 2007

**Title:** An act relating to rail preservation.

**Brief Description:** Preserving rail facilities and railroads by retaining and reusing rail and crossing material.

**Sponsors:** Senators Jacobsen, Benton, Zarelli, Prentice, Honeyford and Rasmussen.

**Brief History:**

**Committee Activity:** Transportation: 2/27/07.

---

### SENATE COMMITTEE ON TRANSPORTATION

**Staff:** Dory Nicpon (786-7321)

**Background:** Current law does not direct the reuse of rail materials. Rail funding is available through the Emergent Freight Rail Assistance program, administered by the Department of Transportation (Department). Each year the Department issues a Request for Proposals, reviews project applications, and reports a list of recommended projects to the Legislature for consideration.

Current law directs that beginning in July 2007, \$2,500,000 is transferred annually from the multimodal account to the transportation infrastructure account. These funds are sometimes referred to as the Freight Rail Infrastructure Bank, and may only be used for rail capital improvements.

**Summary of Bill:** The Legislature finds that where rail-related operations or facilities have benefitted from public investment, there is public interest in ensuring that available rail and crossing materials be retained and reused to modify or improve existing rail facilities.

The rail preservation pilot project is established within the Department to make rail and crossing materials available to in-state rail operators or owners of public or privately owned short line or mainline rail facilities. The Department must establish eligibility criteria to award rail and crossing materials to in-state rail operators or owners of public or privately owned short line or mainline rail facilities. The Department's eligibility criteria for the rail preservation pilot program must include: (1) receipt of competitive state or federal grants or loans; (2) approval by credible expert analysis; (3) impending new opportunities for rail use and expansion; (4) receipt of prior public investment; (5) safety record; and (6) in-kind or cash investments of local matching funds.

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The Department must seek methods to make reusable rail and crossing material available to preserve and improve in-state rail facilities. Where public funds are used to improve, replace, or enhance a rail facility, the department must offer any rail and crossing material removed from the facility to other rail improvement projects within Washington State before the sale or removal of the rail material outside of the state.

The Department must establish a rail material reuse grant program to distribute grants and technical assistance to in-state rail operators or owners of public or privately owned rail facilities. Grants are to be used for the acquisition, removal, and transport of reusable and salvageable rail and crossing material by certain in-state rail operators and owners. Grant and matching funds must be placed by the recipient in a revolving loan fund and deposited in a separate bank or savings account from the recipient's other funds. The grant, matching funds and interest must be used only to acquire, remove, and transport reusable and salvageable rail and crossing material.

The rail preservation fund is created and funded with all federal and state grants and loans received by the Department for rail improvement project purposes. Expenditures for rail improvements may only be made to supply rail and crossing materials to in-state rail operators or owners of public or privately owned short line and mainline rail facilities. The rail preservation fund is included among those funds that receive their proportionate share of earnings.

The act expires six years after taking effect.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Support for any rail funding was expressed, particularly for enhancing shortlines. A proposed substitute might direct the Department of Transportation to inventory the ownership, use and any planned upgrades of rail facilities in the State. The proposed substitute might establish a loan program for rail investment, and redistribute rail materials according to the model of the Grade Crossing program of the Utilities and Transportation Commission.

OTHER: This bill may place railway companies in an awkward position as the contemplated actions may conflict with federal obligations upon abandonment of a line. Refurbishing the redistributed rail may cost the recipient more than buying new rail. Rail projects currently funded assume a salvage value, so the changes proposed in this bill may compromise the ability to complete them. There are many different sizes and types of rail, and matching rail for redistribution may be problematic.

**Persons Testifying:** PRO: Sharon Wylie, Clark County.

OTHER: Bill Stauffacher, Burlington Northern Santa Fe Railway; Scott Witt, Washington State Department of Transportation.